IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	Michael Ellsworth Weedmark
For	:	PROTECTED AND HIGH AVAILABILITY PATHS USING DBR REROUTE PATHS
Serial No.	:	10/699,786
Filed	:	November 4, 2003
Art Unit	:	2616
Examiner	:	Dady Chery
Att. Docket	:	ALC 3095
Confirmation No.	:	5910

REPLY BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The following remarks are directed to the new points of argument raised in the Examiner's

Answer mailed February 14, 2008

I.   CHANGE IN REJECTION OF CLAIMS

In the paragraph bridging pages 4 and 5 of the Examiner's Answer, over four lines of text

are added to the rejection. This added text re-characterized Soncodi by alleging that Soncodi

discloses switching to an alternate path for reasons such as a network failure. Appellant

respectfully submits that the re-characterized assertion regarding the disclosure of Soncodi

misrepresents that disclosure.

In fact, Soncodi does not disclose switching to an alternate path for a reason such as a network failure. Rather, col. 5, lines 22-29 of Soncodi, cited in support of the re-characterization by the rejection, clearly include a list of reasons for rerouting. This list does not include "network failure." In fact, the list includes neither the word "network" nor the word "failure."

The rejection is further changed in the Examiner's Answer in that the phrase "network failure" is added to the parenthetical in the 6th line of the first full paragraph on page 5 of the Examiner's Answer. Applicant respectfully submits that the new inclusion of the words network failure in the first paragraph of page 5 of the Examiner's Answer misrepresent the disclosure, teaching and suggestion of Soncodi for the same reasons described above.

In the last full paragraph on page 6 of the Examiner's Answer, the rejection is changed to include a new citation to col. 5, lines 1-20 of Soncodi. Appellant respectfully submits that this new citation within Soncodi does not overcome the deficiencies in Soncodi described in Appellants' Appeal Brief.

II.   RESPONSE TO APPELLANT'S ARGUMENTS

In section (10) entitled "Response to Argument", the Examiner's Answer puts forth several new arguments in response to Appellant's Appeal Brief. Appellant will respond to each of the Examiner's new arguments in turn. However, Appellant first notes that the Examiner's Answer does not respond to one or more arguments contained in Appellant's Brief. On this basis alone the rejections should be overturned.

On pages 4-5 of Appellant's Brief, Appellant argued that, "Soncodi does not disclose, teach or suggest determining whether the connection 'must' be torn down (i.e.) 'cleared.' Thus,

Soncodi also does not disclose, teach or suggest a switching action that occurs **if** the above

determination is made" (emphasis in original reemphasized).

In response to this argument, the Examiner's Answer makes several assertions on

pages 12-13. These assertions are addressed below.

First, the Response to Argument section of the Examiner's Answer argues that, "Soncodi

discloses a nonpreemptive rerouting for establishing a new call path before the old path is

terminated and preemptive for rerouting, establishing a new path after the old one is terminated."

The Response to Argument section of the Examiner's Answer continues that, "[d]etermination of

rerouting (switching) traffic is based on a number of reasons, such as network failure, QOS

bandwith adjustment, fault recovery, route optimization." The first paragraph of the Response to

Argument section of the Examiner's Answer concludes that, "[t]o achieve the rerouting for these

reasons, the old path is required (i.e."must") to be torn down. This same function is disclosed by the

instant application."

With respect to the contents of the first paragraph of the Response to Argument section of

the Examiner's Answer, Appellant notes that the argument merely repeats portions of the rejections.

The Response to Argument in the Examiner's Answer in fact fails to address Appellant's argument.

The same is true about the paragraph bridging pages 12 and 13 in the Examiner's Answer.

On page 4 of Appellant's Brief, Appellant argued that, "So fails to overcome the

deficiencies in Soncodi described above." The Examiner's Answer does not address this

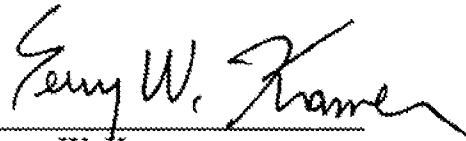argument. Appellant respectfully submits that the Examiner's Answer did not address the

argument because it is correct that So fails to overcome the deficiencies in Soncodi described above.

On page 5 of Appellant's Brief, Appellant further argued that, "nowhere does Soncodi or So disclose, teach or suggest determining whether the connection must be torn down or a switching action that occurs if this determination is made." With respect to the inclusion of So in this argument, the Examiner's Answer did not address the argument. Appellant respectfully submits that the Examiner's Answer did not address the argument because it is correct that So does not disclose, teach or suggest determining whether the connection must be torn down or a switching action that occurs if this determination is made. With respect to Soncodi, the Examiner's Answer does not expressly mention this argument either.

It is respectfully submitted that the remaining points of argument set forth in the Examiner's Answer are repetitive, and thus were fully addressed in Appellant's Appeal Brief. For the reasons set forth herein and in the Appeal Brief, it is respectfully requested that the rejections of the claims under 35 U.S.C. §103(a) be reversed.

In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our Deposit Account Number 50-0578 and please credit any excess fees to such Deposit Account.

Respectfully submitted,
KRAMER & AMADO, P.C.

Date: April 14, 2008

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